

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TOLEDO MACK SALES & SERVICE, INC.,	:	
	:	
	:	
Plaintiff,	:	Civil Action No. 2:02-CV-04373-RLB
	:	
v.	:	
	:	JURY TRIAL DEMANDED
MACK TRUCKS, INC.,	:	
	:	
Defendant.	:	

MACK TRUCKS, INC.,	:	
	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
TOLEDO MACK SALES & SERVICE, INC., and	:	JURY TRIAL DEMANDED
	:	
PAI INDUSTRIES, INC.,	:	
950 Northbrook Parkway, Suwanee, GA,	:	
	:	
Defendants.	:	

COUNTERCLAIM PLAINTIFF'S MOTION FOR EXPEDITED DISCOVERY

Counterclaim Plaintiff Mack Trucks, Inc. ("Mack"), through its undersigned counsel, pursuant to Federal Rules of Civil Procedure 26, 30, 33 and 34, hereby moves this Court for an Order permitting Mack to conduct discovery prior to the expiration of thirty days after the service of the Answer and Counterclaims and prior to the commencement of the preliminary injunction hearing.

In support thereof, Mack represents as follows:

1. Mack has filed counterclaims against Toledo Mack Sales & Service, Inc. ("Toledo Mack") and PAI Industries, Inc. ("PAI") arising out of their conspiracy to steal Mack's secret, confidential and copyright computerized truck parts database system, MACSPEC 2001©. Mack has brought counterclaims for misappropriation of trade secrets and confidential business

information, copyright infringement, breach of contract, tortious interference with existing contractual relations, fraudulent misrepresentation and civil conspiracy.

2. Mack has moved this Court for the issuance of an Order preliminarily enjoining PAI and Toledo Mack from any further misappropriation of its trade secrets and confidential business and from any further acts of copyright infringement and for the issuance of an Order impounding all goods infringing Mack's copyrights.

3. It is critical that Mack be permitted to conduct discovery prior to the preliminary injunction hearing to enable it fully to develop and present its claims at the hearing. Without immediate discovery, Mack will be irreparably injured in its ability to develop its claims.

4. Mack seeks the following limited discovery: (a) the depositions of Toledo Mack, PAI, and Yolanda May, Notices of which are attached hereto as Exhibit A; (b) limited interrogatories directed to Toledo Mack and PAI, attached hereto as Exhibit B; and (c) limited document requests directed to Toledo Mack and PAI, attached hereto as Exhibit C.

WHEREFORE, Mack moves this Court to issue an Order permitting Mack to conduct the foregoing requested discovery immediately, and in all events, prior to the commencement of the preliminary injunction hearing.

Respectfully submitted,

Jon A. Baughman (14043)
Jeremy Heep (75607)
Barak A. Bassman (85626)
PEPPER HAMILTON LLP
3000 Two Logan Square
18th and Arch Streets
Philadelphia, PA 19103-2799
215.981.4000

Attorneys for Defendant Mack Trucks, Inc.

Dated: _____